IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 20 OF 2005

IN

FIRST APPEAL NO. 17 OF 2005

SHRI VRAJESH A.KERKAR AND 2 ORS., ...Applicants

Versus

YESWANT RAO NARAYAN RAO KERKAR AND ORS., ...Respondents

Shri M.B. D'Costa, Sr. Advocate with Shri J.A. Lobo, Advocate for the Applicants.
Shri M.S. Usgaonkar, Sr. Advocate with Shri Sudesh Usgaonkar, Advocate For R.1,2,3c To 3k

Coram:- D. D. SINHA, J.

Date:- 5th December, 2005

P.C.:

Heard Mr. M.B. D'Costa, learned Senior Counsel for the applicants and Mr. M. Usgaonkar, learned Senior Advocate for the respondents.

2. C.A. No.20/05 is moved by the applicants in F.A. No.17/05, praying for grant of stay of the operation of the impugned Judgement and decree dated 5.10.04 in Special Civil Suit No.239/1998/B. The learned Senior Counsel for the applicants states that in the instant case the respondents had filed a suit which was decreed by the trial court and the documents of Will, power of attorney and deed of settlement have been declared null and void. Learned senior counsel contended that appeal against the judgment and decree has been admitted by this Court. It is further contended that during the pendency of the appeal, the appellants shall not alienate or create any third party interest in the suit property. However,

the further steps which the authorities would take on the basis of the decree that Will, Power of attorney and deed of settlement being declared null and void, may be stayed to avoid future complications and some reversible situations and therefore prayed that application may be allowed.

3. Mr. Usgaonkar, the learned senior counsel on the other hand, contended that by the judgment and decree passed by the Civil Court on the above documents such as Will, Power of Attorney, Deed of settlement have been declared null and void and therefore whatever consequences in this regard shall follow and at an interlocutory stage without hearing the appeal on merits the request made by the applicants may not be granted.

4. I have considered the contentions canvassed by the learned respective counsel. In the instant case all the above documents have been declared null and void by the judgment of this Court and therefore whatever the steps which the authorities have to take on the basis of such declaration are inevitable at this stage. However, if the appeal succeeds, then the appropriate direction in this regard can always be given to the Authorities and the situation can always be revived. In that view of the matter, no case is made out for any interim relief.

Civil Application stands disposed of.

D. D. SINHA, J.

sl.